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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 3, 2000

Ms. Magalie Roman Salas
Secretary
445 Twelfth Street, S.W.
TW-A325
Washington, DC 20554

Re: CC Docket No. 98-141, ASD File No. 99-49

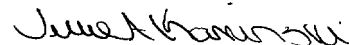
Dear Ms. Salas:

Prism Communication Services, Inc. ("Prism"), hereby submits an original and four (4) copies of its Comments regarding the Request for Interpretation, Waiver, or Modification of the SBC/Ameritech Merger Conditions in the above-referenced proceeding.

Also enclosed is a Return Copy of this filing. Please date-stamp this copy and return it in the envelope included for that purpose.

Any questions regarding this filing should be directed to the undersigned counsel.

Very truly yours,



Julie A. Kaminski
Deputy Chief Counsel-Telecommunications

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Applications of Ameritech Corp., Transferor, and
SBC Communications, Transferee, For Consent To
Transfer Control of Corporations Holding
Commission Licenses and Lines

CC Docket No. 98-141

**COMMENTS OF PRISM COMMUNICATION SERVICES, INC. IN OPPOSITION TO
SBC'S REQUEST FOR INTERPRETATION, WAIVER OR
MODIFICATION OF THE SBC/AMERITECH MERGER CONDITIONS**

Respectfully submitted,

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– Telecommunications

Renée R. Crittendon, Deputy Chief Counsel

– Telecommunications

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BEFORE THE
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**COMMENTS OF PRISM COMMUNICATION SERVICES, INC. IN OPPOSITION TO
SBC'S REQUEST FOR INTERPRETATION, WAIVER OR
MODIFICATION OF THE SBC/AMERITECH MERGER CONDITIONS**

Prism Communication Services, Inc. ("Prism") hereby submits its Comments in response to the Commission's Public Notice¹ and opposes SBC Communication, Inc.'s ("SBC") Request for Interpretation, Waiver or Modification of the SBC/Ameritech Merger Conditions, as set forth in SBC's February 15, 2000 letter to the Commission.² In its February 15th letter, which arises from SBC's sub-loop unbundling obligations under the FCC's UNE Remand Order³ and Line Sharing Order⁴, SBC sets forth its approach to addressing the physical space limitations of remote

¹ In the Matter of the Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90 95 and 101 of the Commission's Rules, CC Docket 98-141, *Public Notice*, DA 00-335 (rel. Feb. 18, 2000) ("Public Notice").

² Letter dated February 15, 2000, from Paul K. Mancini, Vice President & Assistant General Counsel, SBC Communications, Inc., to Lawrence E. Strickling, Chief, Common Carrier Bureau, FCC ("SBC Letter").

³ In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, *Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, FCC 99-238 (rel. Nov. 5, 1999) ("UNE Remand Order").

⁴ In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket Nos. 98-147 and 96-98, *Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98*, FCC 99-355 (rel. Dec. 9, 1999) ("Line Sharing Order").

terminals (“RTs”) and how to provide nondiscriminatory access to the RTs to both unaffiliated providers and SBC’s Advanced Services Affiliate. Specifically, SBC proposes the following:

- SBC will upgrade or newly place 20,000 RTs throughout its 13 state territory and deploy Alcatel 2000 (Litespan 2000) digital loop carrier (“DLC”) system to support these RTs; and
- The SBC incumbent LEC will own combination (voice and data) ADSL lines cards (referred to as ADSL Distribution Line Unit, or ADLU, cards)⁵ to be placed in the 20,000 RTs and the SBC incumbent LEC will include the ADLU cards in a new UNE offering to all CLECs, including the SBC Advanced Services Affiliate; and
- The SBC incumbent LEC will own a new piece of central office equipment called an Optical Concentration Device (“OCD”), described as an ATM switch which aggregates data traffic from multiple RTs and routes the traffic appropriately to each respective CLEC’s ATM cloud.⁶

According to SBC, its initial proposal was to have its Advanced Services affiliate own both the ADLU cards and the OCDs but that, for a variety of reasons, SBC elected to instead have the SBC incumbent LEC own these advanced services facilities.

In its February 15th letter, SBC seeks the Commission’s interpretation regarding its proposed ownership arrangement for these advanced services equipment. In particular, SBC requests the Commission’s concurrence that its proposed ownership arrangement is consistent with the merger conditions set forth in the Commission’s Order approving the merger of Ameritech Corporation to SBC Communications (“SBC”).⁷ In the event the Commission finds

⁵ SBC’s filing describes the ADLU card as an ADSL service card that provides the same functionality as a DSLAM in that it splits the voice and data signal. *See* SBC Letter at Appendix DLE-DSL, Section 2.7.

⁶ SBC Letter and Appendix DLE-DSL. SBC refers to this proposed network architecture and ownership arrangement as its Digital Loop Electronics (“DLE”) infrastructure. *Id.*

⁷ In the Matter of the Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90 95 and 101 of the Commission’s Rules, CC Docket 98-141, *Memorandum Opinion and Order*, FCC 99-279 (rel. Oct. 8, 1999) (“SBC/Ameritech Merger Order”). One of the merger conditions requires SBC to establish one or more separate affiliates to provide advanced services, including Digital Subscriber Line (“DSL”) advanced services, and requires SBC’s advanced services affiliate to own (or lease) and operate all new advanced services equipment used to provide advanced services. SBC/Ameritech Merger Order at Appendix C, ¶¶ 1-13.

SBC's proposed ownership arrangement is inconsistent with the merger conditions, SBC seeks a waiver of the applicable requirements or a modification of the conditions to allow the proposed operating environment. In its Public Notice, the FCC invites parties to present their views on all aspects of SBC's February 15th letter.⁸

Summary of Prism's Position.

SBC's proposal should be rejected by the Commission as it raises serious concerns as to the future deployment of advanced services in the SBC territory. Prism is an advanced services provider offering both voice and data services using an ADSL-type technology that merely requires a copper POTS loop from the incumbent LEC. Prism currently uses an integrated line card that, like SBC's ADLU line card, does not require the use of a DSLAM or POTS splitter. Like most xDSL service providers, Prism cannot offer its services over loop-carrying fiber DLC.

Given the information included in SBC's letter, SBC proposes to replace or add Litespan 2000 DLC facilities to up to 60 million customers in its territory. Because the deployment of advanced services such as xDSL services is dependent upon copper in the ILEC network, the placement of DLC -- and not only just DLC but the 1 type of DLC selected by SBC, Litespan 2000, which may or may not be compatible with other carriers' technology -- calls into question whether competitive advanced services providers will be able to deploy their services to a large segment of customers in the SBC territory. In fact, Prism's initial analysis of SBC's proposal indicates that the technology and network architecture selected by SBC is likely to limit the potential services and product lines that a carrier like Prism will be able to offer in SBC's territory in the future. By claiming ownership and control of this equipment and dictating the network architecture and equipment, SBC is effectively reclaiming the monopoly over the local exchange network that was supposed to be a thing of the past. Prism believes this is particularly

⁸ Public Notice at 1.

important in the context of unbundled access to sub-loop elements at RTs, which, in Prism's opinion, is critical to the future deployment of advanced services.

Prism applauds the Commission's ruling in its UNE Remand Order, where the FCC modified its national list of unbundled network elements (UNEs) to require incumbent LECs to provide access to unbundled sub-loop elements at any accessible point in their outside loop plant,⁹ as well as the Commission's Line Sharing Order, where the FCC extended this rule to require ILECs to provide access to the high frequency portion of the loop at the remote terminal.¹⁰ Indeed, the copper-based ADSL-type technology that Prism uses to offer its advanced services was one of the very reasons that the FCC included access to the sub-loop in its list of required UNEs.¹¹ Prism is therefore concerned with any proposal that may have the effect of conditioning or impeding the availability of the sub-loop element at RTs. In Prism's opinion, this is the effect of SBC's proposal.

Given the ever-expanding footprint of SBC, the long-term ramifications of a network architecture that excludes the deployment of certain technologies or impedes a competitor's ability to offer certain products could have dire consequences on the level of competition in the advanced services industry. The Commission must remain vigilant against any effort to re-establish a monopoly environment in which one carrier dictates the network architecture, controls access and determines how services are deployed over the network. In sum, Prism cautions the Commission from welcoming a potential Trojan Horse into the advanced services arena.

⁹ UNE Remand Order at ¶¶ 202-229.

¹⁰ Line Sharing Order at ¶ 91.

¹¹ See UNE Remand Order at ¶ 218 ("[t]hird, competitors seeking to offer services using xDSL technology need to access the copper wire portion of the loop. In cases where the incumbent multiplexes its copper loops at a remote terminal to transport the traffic to the central office over fiber DLC facilities, a requesting carrier's ability to offer xDSL service to customers served over those facilities will be precluded, unless the competitor can gain access to the customer's copper loop before the traffic on that loop is multiplexed. Thus, we note, that the remote terminal has, to a substantial degree, assumed the role and significance traditionally associated with the central office.")

Prism also questions whether the abbreviated comment period for this matter permits a sufficient opportunity to fully grasp the potential ramifications of SBC's proposal. To this end, Prism cautions the Commission not to approve the proposal without a full and complete investigation of the potential consequences of the proposal. For instance, Prism identifies herein a whole host of questions left unanswered in SBC's proposal which could have a serious impact on the future deployment of advanced services in SBC's 13 state territory.

For these reasons, and as more fully set forth herein, Prism respectfully submits that the Commission should reject SBC's proposal. Competitive carriers must be entitled to fully exercise their rights under the FCC's UNE Remand Order to obtain non-discriminatory access to sub-loops at RTs. As such, CLECs should have the right to place and control their own equipment in the RTs

Prism, for example, uses an integrated line card manufactured by Nortel which, presumably, should take up the same amount of space in an RT as SBC's proposed ADLU card. Prism should therefore be allowed to place its line cards and equipment directly in the frame in the RT, as opposed to having to use SBC's prescribed (ADLU) line cards. SBC's attempt to restrict the equipment and technology used by the CLECs should be rejected out of hand. SBC should be required to play by the rules of the SBC/Ameritech Merger Order and should be prevented from attempting to re-institute a monopoly environment.

A. Copper facilities in the incumbent LECs' network must be preserved for advanced services to truly thrive.

SBC proposes to upgrade or newly install in its 13-state territory over 20,000 RTs, which will be equipped with the Litespan 2000 DLC infrastructure.¹² According to the diagram included with SBC's filing, SBC's proposal will affect service to 60,000,000 customers in SBC's

¹² SBC Letter at 2.

territory.¹³ That is, 60 million customers originally served over copper facilities will not only be served over lines carrying fiber DLC, but the fiber DLC will only be that particular type of DLC proposed by SBC (Litespan 2000).

SBC's proposal for access to the sub-loop at RTs should not be a pretext for SBC to replace all the copper in its territory with fiber suitable for SBC's provisioning needs, but which may exclude the ability of other carriers to provide advanced services. The provision of advanced services such as xDSL technologies is dependent upon the availability of copper. Replacing this copper with DLC and providing access via smaller RTs hardly seems a way to encourage the deployment of advanced services.

For example, Prism has already secured and constructed a significant number of collocations in central offices throughout SBC's territory, which will be equipped with Prism's integrated line card. If SBC "upgrades" the lines served from these collocations to the RTs equipped with Litespan 2000, will Prism be required to seek access at the RT, thereby rendering moot Prism's central office collocations? This would impose significant costs and resources on Prism and delay its service to customers.

B. SBC's proposal will have the effect of limiting the services or products offered by competitive carriers and thwarting innovation.

SBC proposes to limit its RT network architecture to one type of equipment: Alcatel's Litespan 2000 DLC and the corresponding ADLU cards. SBC has therefore selected one manufacturer and thereby excluded any technologies or services that are incompatible with this equipment and infrastructure. SBC has made no showing that its proposed network architecture and equipment is compatible with the technologies that other carriers seek to deploy. SBC's proposal may therefore impede a competitive advanced services provider from offering its service.

¹³ According to the diagram, 200-600 living units will be served by each Subscriber Access Interface ("SAI") and each RT will be served by 3-5 SAIs. Therefore, SBC's 20,000 RTs will be serving up to 60,000,000 customers: 20,000 RTs @ 5 SAIs @ 600 living units = 60,000,000 customers.

Furthermore, SBC's proposal has the effect of limiting the types of services or products that competitive carriers will be able to offer its customers and thwarting innovation in the advanced services market. For example, SBC's proposal may restrict the data transmission speeds that a competitive carrier will be able to offer its customers as part of its product offering. SBC's proposal of using a SONET interface allocates the data and voice traffic to separate channels, which have a defined bandwidth and customer base. Customer traffic being served out of the RT share the bandwidth. If Prism wanted to differentiate among customers – and offer a premium grade of service to certain customers – it would be unable to do so in SBC's speed-restricted environment. This is clearly an unworkable solution in the current environment where customers have come to expect “bandwidth on demand.” Yet, this is the practical effect of SBC's proposal.

In a similar vein, the Litespan 2000 infrastructure will preclude Prism from offering its customers certain value-added services, such as Centrex services, video on demand, caching services and streaming services. SBC's proposal effectively controls the features, functions and capabilities of the services which competitive carriers will be able to offer. Again, competitors should not be required to forego offering services, and receiving revenues therefore, because SBC's chosen technology will not allow for it.

SBC's proposal to limit its RT network infrastructure to one equipment manufacturer will also stifle innovation. Different product offerings that a carrier may want to introduce may not be compatible with the Litespan 2000. In those instances, the customers will be deprived of new services and competitors will lose the additional revenues associated with those services.

In sum, SBC should not be allowed to freeze out competition and innovation by locking in its preferred technology. This can only have the effect of ushering in a new monopoly environment for advanced services in the SBC territory: that is, an environment in which the incumbent controls access and how services are to be deployed. Clearly, such a result is not in

the public interest and should be fully guarded against by the Commission. Indeed, in the SBC/Ameritech Merger Order, the Commission stated:

Advanced services markets are still emerging and developing, so we must continue to ensure competition in the provision of advanced services by multiple providers ... [p]rotecting against an increase in incentive and ability for incumbents to discriminate against competing advanced services providers not only furthers the Commission's ongoing efforts to encourage innovation and investment in advanced services, but also comports with the Commission's obligations under section 706 to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans."¹⁴

Prism hopes the Commission will not lose sight of the ongoing need to ensure competition by multiple providers in the advanced services marketplace and to protect against the discriminatory tactics of the incumbent LECs.

C. A full and complete review of SBC's proposal is necessary to understand and appreciate the consequences of SBC's selected network architecture and technology.

SBC's proposal contains a technical description of its proposed network architecture and equipment requirements. Prism questions whether the abbreviated (two week) timeframe established to review and comment on SBC's proposal provides a sufficient opportunity to fully evaluate the future consequences of SBC's proposal and the deployment of advanced services in the SBC territory. A complete review of SBC's proposal and the effect of such proposal on the ability of competitive carriers to deploy advanced services, should not get short shrift to SBC's desire to roll out its advanced services as quickly as possible.

For example, in addition to the general concerns raised herein, Prism submits the following (nonexhaustive) list of questions that affect the deployment of advanced services in the SBC territory but that remain unanswered by SBC's proposal:

- How will SBC ensure nondiscriminatory access to the RTs vis-à-vis its advanced services affiliate?
- Will advanced services providers who rely on copper facilities and are currently collocated in SBC's central offices ("COs") be required to transition to the RTs?

¹⁴ SBC/Ameritech Merger Order at ¶ 187.

- Will SBC retain the copper facilities that it proposes to replace, at least in part, with DLC and make those copper facilities available to requesting carriers?
- Can SBC ensure the reliability of the OCD equipment? (Prism submits that since SBC proposes to “full-fill” the outgoing circuit by combining the traffic of several RTs carrying a multitude of customer’s traffic, if the circuit goes down, there is a greater effect on a larger number of customers.)
- How will SBC select the RTs that it proposes to upgrade to Litespan 2000 or the locations in which it intends to deploy RTs with Litespan 2000?
- How and why did SBC select the Litespan 2000 and its DLE architecture?
- When will SBC publish the Technical Publications intended to identify the current standards that SBC will consider acceptable for deployment on its DLE infrastructure?
- How will SBC determine which technologies may be deployed over its DLE network?

D. Conclusion

For these reasons, Prism respectfully requests that the Commission reject SBC’s proposal and require SBC to comply in full with the requirements of the UNE Remand Order, the Line Sharing Order and the SBC/Ameritech Merger Order. Competitive carriers must be entitled to place and control their equipment in RTs and should not be required to use the equipment owned and deployed by SBC. For example, Prism should be allowed to place its line cards and equipment directly in the frame in the RT, as opposed to having to use SBC’s prescribed (ADLU) line cards. Finally, the Commission should remain vigilant in guarding against anticompetitive acts disguised as network changes.

Respectfully submitted,

PRISM COMMUNICATION SERVICES, INC.

By: Julie A. Kaminski
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March 3, 2000

CERTIFICATE OF SERVICE

I, Evelyn A. Opany, hereby certify that a true and correct copy of the Comments of Prism Communication Services, Inc. on SBC Request for Interpretation, Waiver or Modification of the SBC/ Ameritech Merger Conditions in CC Docket No. 98-141 was served via Courier and U.S. Mail, postage pre-paid to the following individuals, this 3rd date of March, 2000.

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